



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

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Mr. Michael Ritchie  
Hazardous Materials Specialist  
Minnesota Department of Transportation  
Office of Motor Carrier Services  
1110 Centre Pointe Curve  
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Mendota Heights, MN 55120

Ref. No. 02-0259

Dear Mr. Ritchie:

This responds to your letter requesting the clarification of several terms and issues under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered as follows:

Q1. What is the definition of "contract carrier" when determining eligibility under the exceptions for empty packagings containing the residue of a hazardous material in § 173.29(c) and other similar sections in the HMR?

A1. The term "contract carrier" is used in the HMR in the same manner as in the former Interstate Commerce Act ("the Act," now repealed) to mean a person who transports by motor vehicle, for compensation, passengers or property in commerce "under continuing contracts with one person or a limited number of persons either (a) for the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of such person served or (b) for the furnishing of transportation services designed to meet the distinct need of each individual customer." A contract carrier provides "specialized service" to its customers, and the Act required the Interstate Commerce Commission to consider "the number of shippers to be served [and] the nature of the service" provided by a contract carrier.

A contract carrier is distinguished from a "common carrier" who "holds itself out to the general public [to transport] passengers or property or any class of classes thereof for compensation," and a "private carrier" who transports its own property for the purposes of sale, lease, or "in furtherance of any commercial enterprise."



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173.29

Q1a. Is this definition applicable to intrastate shipments?

A1a. Yes, the HMR apply to the interstate and intrastate transportation of hazardous materials in commerce.

Q2. Must the transport vehicle be contracted for exclusive use between one shipper and the carrier or may there be multiple contracted shippers utilizing the same transport vehicle under the empty packaging exceptions in § 173.29(c)?

A2. Under § 173.29(c), a contract carrier may transport packages from multiple offerors, on the same transport vehicle, provided the empty packagings containing residue are collected for purposes of reconditioning, remanufacture or reuse.

Q3. What constitutes "a motor vehicle used exclusively to transport" under the exceptions for diagnostic specimens and biological products when transported by contract carriage in § 173.134(b)(6)?

A3. Under the "used exclusively" provisions of § 173.134(b)(6), the motor vehicle used to transport the diagnostic specimens and biological products may carry only medical or clinical equipment and laboratory products and no other materials. The medical or clinical equipment and laboratory products must be properly packaged and secured against exposure or contamination.

Q3a. What constitutes "a vehicle dedicated to the transportation" under the exceptions for regulated medical waste when transported by contract or private carriage in § 173.134(c)?

A3a. Under the "dedicated use" provisions of § 173.134(c), the motor vehicle used to transport the regulated medical waste may carry only medical or clinical equipment and laboratory products and no other materials. The medical or clinical equipment and laboratory products must be properly packaged and secured against exposure or contamination.

Unless otherwise indicated, under the HMR the terms "dedicated use" and "used exclusively" are synonymous. As used in § 173.134, these terms apply to the materials authorized to be carried aboard a transport vehicle. However, in certain cases these terms may be shipper specific. For example, under "exclusive use" of the refiller in § 173.28(b)(7) or as specified in the definition of "exclusive use" in § 173.403.

Q4. Can a contract carrier return an "exclusive use" or a "dedicated use" transport vehicle to general use? Under what conditions?

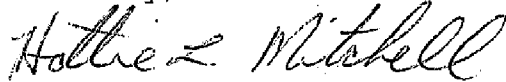
A4. Yes. Once the transportation of diagnostic specimens or biological products or regulated medical waste is completed, a motor vehicle can be used to transport other materials.

Q5. Could a single trip be considered the "dedicated use" or "exclusive use" of a transport vehicle under § 173.134(b)(6) and (c)?

A5. Yes. There are no minimum number of trips required to satisfy this requirement.

I trust this information is helpful. Please contact us again if we can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell".

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards



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September 19, 2002

Edward Mazzullo  
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Stevens  
§173.29  
Empty  
Packaging  
DZ - 0259

Dear Mr. Mazzullo,

The Hazardous Materials Transportation Regulations (HMR) provide exceptions from some requirements when certain materials or types of packaging is transported by a private or contract carrier. 49 CFR 173.29 (c) (2) excepts shipments of non-bulk packaging containing only the residue of hazardous materials from the shipping papers requirements when transported by contract or private carriers for reuse or reconditioning.

Hazardous material cargo inspections conducted by this Agency under the Federal Motor Carrier Safety Administration's HM Package Inspection Program have discovered residue containing package shipments transported by common carriers not documented with shipping papers. The North American Standard Hazardous Materials Out-of-Service Criteria state that an out of service condition exists when required shipping papers are missing. The Federal Motor Carrier Safety Administration SAFER web site allows enforcement personnel to check if an interstate carrier has contract authority, but some states no longer issue intrastate contract carrier authority.

1. What definition of "contract carrier" is used for determining the applicability of the exceptions in § 173.29 (c) and other similar sections of the HMR? Is this definition applicable to intrastate shipments?
2. To utilize the exception in § 173.29 (c) (2), must the transport vehicle be assigned for exclusive use by the shipper, or can the shipment of residue containing packages be part of mixed or less than truckload shipments from many shippers if the for hire carrier and shipper have a contract?

The revised regulations on infectious substances in Docket HM-226, provide exceptions for shipments of diagnostic specimens and regulated medical waste in §173.134, when carried by private or contract carriers in vehicles dedicated to moving those materials. Diagnostic specimens as are frequently transported by courier services that may or may not have contract carrier authority. Many diagnostic specimen packages are transported by courier services in vehicles that are carrying packages from many shippers.

The revised § 173.134, paragraph (b) (6), provides some exceptions for packages of diagnostic specimens and regulated medical waste when transported by private or contract carriers in motor vehicles used exclusively to transport those specimens, biological products, and related equipment. Paragraph (c) of that section gives exceptions for cultures and stocks of division 6.2 materials transported by private or contract carriers in vehicles dedicated to the transportation of regulated medical waste.

3. What constitutes exclusive use of a vehicle as referenced in 173.134 (b) (6)? Could a contract carrier use exclusively a vehicle for delivery of one shipment of diagnostic specimens, and then return that vehicle to general use?

4. What constitutes dedicated use as referenced in paragraph (c)? Is a single truckload shipment dedicated use for RMW transportation? What steps would have to be taken by the carrier to remove a unit from dedicated RMW service?

Thank you for clarification on these issues.

Yours truly,



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cc: Daniel Drexler, Federal Motor Carrier Safety Administration